

# Calendar

## for Filing Nebraska Income Tax Withholding Forms

**MONTHLY – 15th.** Form 501N, Nebraska Employer's Monthly Withholding Deposit, is due on the 15th day of the following month for those who withhold more than \$500 in either of the first two months of the quarter (not filed in January, April, July, or October).

**FEBRUARY 15.** The Federal Forms W-2, W-2G, 1099-R, and 1099-MISC, reporting the amounts paid and taxes withheld in the preceding year must be delivered to the employee or payee.

**MARCH 15.** The Form W-3N, Nebraska Reconciliation of Income Tax Withheld, must be filed by this date. The Form W-3N filing includes the state copies of the Federal Forms W-2, W-2G, 1099-R, and 1099-MISC, delivered to the employee or payee.

**APRIL 30, JULY 31, AND OCTOBER 31.** The Form 941N, Nebraska Quarterly Withholding Return, must be filed for the previous calendar quarter.

**JANUARY 31.** The Form 941N for the fourth calendar quarter must be filed. **Annual filers must file the Form 941N for the previous calendar year's withholding.**

## Reminders

**WHEN PAYING WAGES.** Persons paying an employee wages for services performed in Nebraska subject to withholding must be licensed. They must withhold an amount from the wages paid for the Nebraska individual income tax. If the employee is working in more than one state, the employer may be required to withhold for more than one state for the same employee. Consult the Nebraska Withholding Tax Regulations.

**WITHHOLDING ALLOWANCES** are the same number as the employee claims on his or her Federal W-4 or W-4P forms. The value of the Nebraska allowance is listed on page 4.

**ADDITIONAL STATE WITHHOLDING.** If an employee wants additional state income tax to be withheld, he or she should complete a written statement to the employer requesting the amount to be withheld. Please inform your employees how to request additional state withholding from their paychecks.

**FEDERAL CIRCULAR E REQUIRED.** The Nebraska guide does not repeat some of the information contained in the Federal Circular E, Employer's Tax Guide. A copy of that publication will be necessary for you to properly withhold federal and Nebraska income taxes.

**STATE INCOME TAX WITHHOLDING ON PENSIONS AND ANNUITIES.** Legislative Bill 216, enacted by the 2005 Legislature, changed the state income tax withholding provisions for pension and annuity payments made to Nebraska residents effective for **payments made on and after January 1, 2006. See page 4.**

**INFORMATION RETURNS.** Reporting payments not subject to withholding for Nebraska are not required to be furnished to the Nebraska Department of Revenue. Only those forms that report wages or payments subject to withholding or amounts withheld for state tax must be furnished to the Department.

**NONRESIDENT WITHHOLDING.** Payments to nonresidents who are not employees for personal services performed in this state, whether or not they are subject to federal withholding, may be subject to Nebraska withholding. Read the section entitled "Withholding From Nonresidents" on page 5.

**ELECTRONIC FUNDS TRANSFER.** Payments made by electronic funds transfer (EFT) eliminate the need for filing a Form 501N, Nebraska Employer's Monthly Withholding Deposit. However, all other required forms must still be filed with the Nebraska Department of Revenue.

**ONLINE FILING OF THE 941N IS NOW AVAILABLE.** This electronic filing option is easy to use and is open to all 941N filers. For more information visit our Web site at <http://www.revenue.ne.gov> and review the E-Services section.

**NEBRASKA IDENTIFICATION NUMBER.** Employers and payors are required to list their Nebraska identification number on each Federal Form W-2, 1099-R, 1099-MISC, and W-2G which they issue.

# Circular EN Effective January 1, 2008

## Nebraska Income Tax Withholding INSTRUCTIONS

**PURPOSE.** This circular explains your Nebraska tax responsibilities as an employer for withholding, reporting, and paying taxes. It explains the forms you must give your employees, those your employees must give you, and those you must send to the Nebraska Department of Revenue.

This circular also has the tax tables to figure the Nebraska taxes for withholding from each employee for wages paid on or after **January 1, 2008. They will continue to be used until a revised Circular EN is issued.**

**TAXPAYER ASSISTANCE** is available at the Nebraska Department of Revenue taxpayer assistance offices located in Grand Island, Lincoln, Norfolk, North Platte, Omaha, and Scottsbluff. The addresses and phone numbers are shown on the back cover. Hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, and at such other times and places as may be announced. Persons may also call for taxpayer assistance, toll free from within Nebraska and Iowa, by dialing 1-800-742-7474 or 1-402-471-5729. Because of the heavy use of this service, we suggest you first try to contact your regional office. Persons with questions regarding electronic payments may call, toll free, the department's Electronic Funds Transfer Helpline by dialing 1-800-433-8631.

**ARE YOU REQUIRED TO WITHHOLD?** If you have an office or conduct business in this state and are considered an employer for federal purposes, you must withhold income taxes for Nebraska. This includes payments made to all employees, including nonresidents, for services performed in this state.

If you pay a nonresident of Nebraska for personal services performed in this state, even when the person is not your employee, and the payment is not subject to federal withholding you may still be required to withhold for Nebraska.

**WITHHOLDING CERTIFICATE.** Every person who is required to withhold must obtain a Nebraska Income Tax Withholding Certificate. The certificate contains your Nebraska identification number. The certificate must be kept in your permanent records.

The certificate can be obtained by filing a Nebraska Tax Application, Form 20, with the department. There is no fee for this certificate.

**Multiple locations.** An employer with more than one location or accounting office may file deposits and returns for all locations, or for a region, separate location, or district.

**Taxable wages.** All amounts determined to be wages and subject to federal withholding are also wages for Nebraska purposes. They are subject to Nebraska withholding if paid for services performed in this state.

**Cancelling the withholding certificate.** If an employer or payor no longer expects to make payments subject to withholding, the withholding certificate can be cancelled. This can be done by checking the box above the name and location address on the Nebraska Quarterly Withholding Return, Form 941N, indicating that this is the final return. The withholding certificate can also be cancelled by filing a Nebraska Change Request, Form 22.

**GAMBLING WINNINGS.** Gambling winnings and other payments that are subject to federal withholding are subject to Nebraska withholding. See page 4.

**PENSION AND ANNUITY WITHHOLDING ON AND AFTER JANUARY 1, 2006.** Prior law had made state income tax withholding on such payments voluntary upon request of the annuitant or payee. **The law now requires that withholding for state tax occur whenever the recipient has federal withholding taken from a pension or annuity payment. See page 4.**

"Wages" for Nebraska purposes does not include amounts subject to 26 U.S.C. section 3406 (backup withholding on interest and dividends). These amounts are not subject to Nebraska withholding.

**PAYROLL PERIOD.** The payroll period is the same you usually use to pay wages. The payroll period for Nebraska purposes is the same period used for federal withholding.

**WITHHOLDING FROM EMPLOYEES.** Each employee is required by the Internal Revenue Service to file a Federal Form W-4, Employee's Withholding Allowance Certificate. This W-4 is also used for Nebraska income tax withholding. The employer must withhold Nebraska tax for each employee using the Federal Form W-4 allowances.

**An employee may request that an added amount for Nebraska purposes be withheld by the employer.** The additional amount withheld will be treated in the same manner as other required withholding. **The employee should complete a written statement requesting the additional amount of state withholding.**

**The same marital status and number of withholding allowances claimed for federal purposes must be used for Nebraska.** The employer is not allowed to accept one Federal Form W-4 for federal withholding and a different one for Nebraska withholding.

**EXEMPT EMPLOYEES.** If employees claim exemption from federal withholding because they did not have a liability last year and expect none this year, they are also exempt from Nebraska withholding. **Note:** This can be superseded by LB 223 procedures. See inside front cover. If the IRS requires withholding for an individual who has previously claimed exemption from withholding, that person is also subject to Nebraska withholding.

**NONRESIDENT EMPLOYEES.** Nonresidents who work in Nebraska with wages subject to federal withholding are subject to the same withholding on their entire wages as that used for Nebraska residents.

**A Nebraska Employee Certificate for Allocation of Withholding Tax, Form 9N,** may be filed with the employer by any nonresident employee who is working for an employer in both Nebraska and other states. The form is used to designate the percentage of the wages subject to withholding for Nebraska purposes.

The employer first calculates the withholding for a nonresident on the total wages paid using either the percentage method or the wage bracket method. After figuring what the withholding

would be, the employer multiplies the withholding amount calculated by the percentage subject to withholding contained on the Form 9N. This result is the amount to be withheld for the nonresident.

The percentage on the Form 9N is only for the purpose of making the Nebraska withholding approximate the expected liability to Nebraska. **The percentage used for withholding purposes does not determine the wage amount that must be included on the Form W-2 as Nebraska wages.**

**NONRESIDENTS PERFORMING PERSONAL SERVICES.** A nonresident who performs personal services within Nebraska and who is not subject to federal withholding may still be subject to Nebraska withholding. There are special rates and methods for the withholding from nonresidents who are not subject to federal withholding. The necessary instructions and rates are on page 5.

Withholding is required when a private individual makes a payment or payments of more than \$5,000 to a nonresident performing personal services in Nebraska. Withholding is also required when those engaged in business or with a business location in Nebraska make payment(s) to any nonresident individual, partnership, corporation, or limited liability company of more than \$600 for performing personal services.

#### **FILING AND PAYMENT REQUIREMENTS**

**QUARTERLY RETURN.** Every employer maintaining an office or conducting business in this state, and making payments to employees, is required to file the Nebraska Quarterly Withholding Return, Form 941N, unless licensed as an annual filer.

**Form 941N is filed whether or not there were payments made during the quarter that were subject to Nebraska withholding. The Form 941N is due on or before the last day of the month following the end of the quarter.**

All employers who withhold \$500 or more during the first or second month of a quarter must file a monthly deposit. See the following.

**MONTHLY DEPOSITS.** The amount of taxes withheld determines the frequency of deposits. All employers are required to file returns and remit the tax each quarter.

**No monthly deposit is required** if, at the month end, the amount withheld during the month is **less than \$500**. The tax withheld can be kept by the employer and paid with the quarterly return due the last day of the month following the end of the calendar quarter.

**Monthly deposit is required** if the employer has withheld **more than \$500** the first month of the quarter. A monthly deposit must be filed by the 15th day of the next month. A monthly deposit is then required to be made for the second month of the quarter, whether or not the amount withheld for the second month is more than \$500.

**Deposit for second month is required** if the employer withholds **more than \$500** during the second month of the quarter. It is filed by the 15th day of the following month. Payment of all taxes withheld for both the first and second months is made.

**Monthly deposit filing.** Every employer required to deposit taxes monthly or who has requested to file monthly must file the Nebraska Employer's Monthly Withholding Deposit,

Form 501N. The form is filed by the 15th day of the following month. The Form 501N is used only for taxes withheld during the first two months of the quarter. The taxes withheld for the third month of each quarter are paid with the Nebraska Quarterly Withholding Return, Form 941N.

An employer who wants to begin receiving monthly Forms 501N from the department must complete and file a Nebraska Change Request, Form 22.

**ANNUAL FILERS.** Employers who have been licensed to file on an annual basis will file a single Form 941N for the entire calendar year. This return is due on or before January 31 of the following year. Quarterly returns will not be sent for the first three quarters of the year.

**ANNUAL RECONCILIATION OF INCOME TAX WITHHELD.** A Nebraska Reconciliation of Income Tax Withheld, Form W-3N, is mailed at year-end to each licensed employer including annual filers. It is mailed separately from the fourth quarter Form 941N. A Form W-3N is also mailed when you indicate you no longer make payments subject to Nebraska withholding. The Form W-3N is due on or before March 15 of the following year. It is filed separately from Form 941N.

The Form W-3N also serves to send the following Nebraska copies: Wage and Tax Statements, Federal Forms W-2; Certain Gambling Winnings, Federal Forms W-2G; Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., Federal Forms 1099-R; and Miscellaneous Income, Federal Forms 1099-MISC; for each employee or payee for whom Nebraska income tax has been withheld during the year.

**Beginning in 2009, an employer or payor who is submitting more than 250 W-2s, W-2Gs, 1099-Rs and/or 1099-MISCs for 2008 must file the forms electronically.**

**PREIDENTIFIED RETURN.** The Nebraska Department of Revenue will send returns to each licensed employer. These returns can be used only by the employer or payor whose name is printed on the form.

If you have not received a preidentified return for the reporting period, request a duplicate from the department. Do not file returns which are photocopies, returns from another tax period, or returns which have not been preidentified. If the business name or location or mailing address is not correct, mark through the incorrect information. Plainly print the correct information. If you have opted to make payments by electronic funds transfer, you will not be sent a preidentified Form 501N; however, you will continue to receive other preidentified forms.

**ELECTRONIC PAYMENTS.** The department allows all types of withholding tax payments to be made by electronic funds transfer. Employers interested in participating in this program must first register with the department by calling 1-800-433-8631. An Electronic Funds Transfer Information Guide explaining this program is available upon request from the department.

**Magnetic media filing.** The department allows the reporting of the Nebraska copies of Forms W-2, 1099-R, 1099-MISC, or W-2G on magnetic media. Before this reporting can be used, the employer or paying agent must file a Nebraska Application for Computer Reporting, Form 4419N.



The magnetic media must meet the specifications in the information guides entitled Nebraska Computer Reporting Procedure 21C and 21CM. The Nebraska guidelines are used in combination with the federal guidelines in publications 1220 and 42-007 for magnetically filing these forms.

**WHERE TO FILE.** All taxes withheld and returns filed must be sent to the Nebraska Department of Revenue, P.O. Box 94818, Lincoln, Nebraska 68509-4818.

**Receiving forms.** All preidentified forms are mailed by the department a short time before the forms are required to be filed. The preidentified form or a previously approved substitute must be used.

Federal forms can either be obtained from the Internal Revenue Service or from commercial distributors.

**DETERMINING WITHHOLDING.** There are several ways to figure income tax withholding. You can use the Nebraska percentage method or the Nebraska wage bracket method, regardless of the method used to calculate the federal withholding.

If you calculate federal withholding using the following methods, the same method of figuring the tax can be used for Nebraska. The methods that can be used are: annualized wages method, average estimated wages, cumulative wages, and part-year employment methods.

**If you do not use one of these methods for federal withholding, the percentage method or the wage bracket method must be used for Nebraska.**

**PERCENTAGE METHOD.** If you do not want to use the wage bracket tables to figure how much income tax to withhold, or if the amount of wages paid is more than the amounts included on the wage bracket tables, you can use a percentage computation based on the following table and the appropriate rate tables on pages 6 or 7. This method works for any level of wages and any number of withholding allowances the employee claims.

Find the amount to withhold in the following manner:

INCOME TAX WITHHOLDING—PERCENTAGE METHOD Percentage Method Withholding Table Effective January 1, 2008	
Payroll Period	Value of One Withholding Allowance
Weekly .....	\$32.69
Biweekly .....	65.38
Semimonthly .....	70.83
Monthly .....	141.67
Quarterly .....	425.00
Semiannually .....	850.00
Annually .....	1,700.00
Daily or Miscellaneous .....	6.54

1. Multiply one withholding allowance for the appropriate payroll period from the table to the left by the number of allowances claimed by the employee.
2. Subtract that amount from the employee's wages.
3. Determine the amount to withhold on the appropriate table on pages 6 or 7. Use the payroll period and filing status of the employee.

**WAGE BRACKET METHOD.** Under the wage bracket method, use the proper table from pages 8 through 25, for the employee's marital status and your payroll period. Next, find the correct amount to withhold using the wage amount and the number of withholding allowances claimed. If the employee claims more than ten allowances, the amount of wages must be adjusted. However, if the federal withholding is computed on ten allowances even if the employee claims more than ten allowances, use the same method for Nebraska withholding.

**Adjusting wage bracket withholding for more than ten withholding allowances.** The wage bracket tables include up to ten allowances. To adapt the table for more than ten allowances:

1. Multiply the number of withholding allowances claimed over ten by the withholding allowance value for the payroll period used in the table to the left.
2. Subtract the result from the employee's wages.
3. Apply the wage amount after the subtraction to the withholding tables, and withhold the amount in the column for ten allowances.

This calculation will be used whenever the same method is used for the federal withholding.

**BONUSES, SUPPLEMENTAL WAGES, AND TAXABLE AWARDS.** In addition to the percentage method and the wage bracket method, you can choose the option of using a flat withholding rate on bonuses, supplemental wages, and other such taxable awards (e.g., commissions, overtime pay, and sales awards, which are not paid at the same time as other wages). The rate of withholding for Nebraska is **5.0 percent** of the bonuses, supplemental income, or other taxable awards subject to the special federal withholding rate of 25 percent.

**GAMBLING WINNINGS.** There is a flat withholding rate of **5.0 percent** of the winnings subject to federal withholding. The amount required to be withheld must be reported on Federal Form W-2G.

**PENSIONS AND ANNUITIES.** For periodic payments of employer-provided pensions and annuities, the withholding is figured in the same manner as withholding from wages. Payors are to use the same number of allowances and marital status as claimed by the payee on the Federal Form W-P, Withholding Certificate for Pension or Annuity Payments, filed with the payor. Use the appropriate payroll period in the **2008 Nebraska Circular EN** to coincide with the type of periodic payment (i.e., monthly, quarterly), together with the applicable withholding allowances and marital status to compute the amount to withhold for state income tax purposes.

**Nonperiodic payments or eligible rollover distributions** subject to either the mandatory 10 percent or 20 percent federal withholding rate will withhold at a rate of five percent (5%) of the distribution for state income tax purposes.

Payees choosing to **not** have federal tax withheld are not required to have state income tax withheld. Alternatively, a taxpayer may also request to have **additional** state tax withheld. Payors are to advise payees how to communicate such request(s).

Premature distributions from an IRA are not subject to Nebraska withholding.

# Withholding from Nonresidents

## on Payments not Subject to Federal Withholding

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A Nebraska nonresident who performs personal services within Nebraska and who is not subject to federal withholding may still be subject to Nebraska income tax withholding.

Some persons performing personal services that require withholding include individual athletes, jockeys, consultants, entertainers, performers, public speakers or those providing professional services.

Withholding is not required from payments to nonresident aliens providing personal services who are citizens of a country which has a tax treaty with the United States. The nonresident alien must provide the payor a statement regarding the tax exempt status of the income earned.

**Personal services exclude** services performed where capital furnished by the nonresident is a material income-producing factor. Capital is considered a material income-producing factor whenever the value of the use of capital, or the value of capital furnished, is in excess of 50 percent of the amount of payment.

**WHO MUST WITHHOLD.** Any person making a payment or payments of more than \$5,000 to a nonresident individual for personal services performed in Nebraska will be required to withhold Nebraska income tax. Those engaged in business in Nebraska or with a Nebraska business location making a payment or payments to a nonresident individual in excess of \$600 will also be required to withhold Nebraska income tax.

**FORM W-4NA.** The payor and payee are to complete Nebraska Withholding Certificate, Form W-4NA, to compute the amount to be withheld from payments for personal services in Nebraska. A copy of Form W-4NA is on page 27. The withholding is reported to the person performing the personal services and the department in the same manner as wages or other payments subject to withholding by using a Federal Form 1099-MISC and Forms 941N and W-3N.

**DETERMINING THE AMOUNT TO BE WITHHELD.** This computation of the amount withheld is **not** the same as the method for wages. If the amount of the payment less allowable expenses is less than \$28,000, the amount withheld will be 4.0 percent of the payment less expenses. If the payment less allowable expenses is \$28,000 or more, the amount withheld will be 6.0 percent of the total amount of the payment less expenses.

Any nonresident performing personal services may provide the payor with a statement of expenses reasonably and directly related to the personal services performed in Nebraska. The

expenses claimed may not exceed 50 percent of the payments. The total payment to the individual may be reduced by the allowable expenses before figuring the amount to withhold by using Nebraska Withholding Certificate, Form W-4NA.

If more than one payment is made for the same services or for services that are a part of the same job or project, then all of the payments will be added in order to determine the correct rate of withholding. If the sum of the payments less expenses was \$28,000 or more and some of the withholding was at the lower rate, the amount withheld from the later payments must be increased to make the total withholding equal 6.0 percent of the total of all the payments.

**PAYMENTS TO A CORPORATION, PARTNERSHIP, OR LIMITED LIABILITY COMPANY FOR PERSONAL SERVICES.** If the payment is made to a corporation, partnership, or limited liability company for personal services provided, and if the entity is controlled by the individual(s) performing the services, withholding will also be required. **The payment will be considered made directly to the individual(s) involved.**

Every payor required to deduct and withhold from a payment to a corporation, partnership, or limited liability company is also required to furnish a statement in duplicate on Form 1099-MISC to each shareholder, partner, or member who performs services within this state. The total payment must be divided among the shareholders, partners, or members performing the service in Nebraska according to their interest in the entity. The amount withheld, which is computed on the total payments to the corporation, partnership, or limited liability company is divided among the shareholders, partners, or members in a similar manner, and is allowed as a credit on the individual income tax returns of the shareholders, partners, or members.

If the partnership, corporation, or limited liability company fails to give the payor the information needed to prepare the Federal Form 1099-MISC for the shareholders, partners, or members, the payor must prepare the Federal Form 1099-MISC in the name of the corporation, partnership, or limited liability company and send the copies normally given to the payee to the Nebraska Department of Revenue as if the forms were not deliverable.

Payors are to issue Forms 1099-MISC to nonresidents providing personal services by February 15 following the close of the calendar year, or within 30 days after the service has been provided.